UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,795	03/06/2006	Ronald J. Craswell	115710-149427	4331

25943   7590   03/16/2009
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EXAMINER
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ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
03/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/538,795	CRASWELL ET AL.
	Examiner	**Art Unit**	
	Greta L. Robinson	2169	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *10 December 2008*.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-3,5-17 and 19* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-3, 5-17 and 19* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-3, 5-17 and 19 are pending in the present application.

2.   Claims 4 and 18 have status cancelled. Claims 1, 5, 7-17 and 19 have been
amended.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of
the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of
the various claims was commonly owned at the time any inventions covered therein
were made absent any evidence to the contrary. Applicant is advised of the obligation
under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was
not commonly owned at the time a later invention was made in order for the examiner to
consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)
prior art under 35 U.S.C. 103(a).

4.   Claims 1-3, 5-17 and 19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Dutta et al. US Patent Application Publication No. 2002/0156921 A1

in view of Andersen US Patent 6,865,655 B1.

        Regarding claim 1, **Dutta et al.** teaches *a wireless communication apparatus*

[note: Figures 1, 3, and 5 ; paragraph 0017 a cellular wireless network 112] having

        a processor [note: paragraph 0033 processors 202 and 204]; and

        a *memory* comprising executable instructions which, when executed are

operative to [note: paragraph 0033];

        facilitate *login to a user account* at a backup server, the user account associated

with a user having the wireless communication apparatus and another computing

device [note: paragraph 0007 wireless device pushes request to client via

proxy/gateway server; paragraph 0017-0020 IP network system requests IP address

based on uniform resource locator and connects via proxy server 106 or another

connection; also note firewall configuration; gateway 114 paragraph 0022; paragraph

0023 wireless application protocol (WAP); Figure 4];

        facilitate designation of data on the wireless computing apparatus *to backup*

[note: paragraph 0043; Figure 5 requesting backup];

        generate a *hash value* for said data [note: application identified by SL paragraph

0045-0046];

communicate said hash value to the *backup server* to enable said backup server
to determine whether said data is already available to said backup server or not [note:
Figure 7]; and

only if said backup server indicates that said data is not already available to said
backup server, *send said* data to said backup server to enable the backup server to
store the data and provide the data to the other computing device [note: paragraph
0022; paragraph 0023-0024 wireless application protocol (WAP) defines the protocol;
paragraph 0027 special protocols; paragraph 0031 Data Backup Server 170
provides backup for wireless devices such as PDAs; paragraph 0046 sends data to
backup server; backup may be predefined paragraph 0043].

Although Dutta et al. teaches the invention substantially as cited above, they do
not explicitly teach backup only if data is not already available and that the identifier is a
hash value; however they do teach predefined conditions for backup.

Andersen teaches determining if there is a data portion for backup and a
mechanism for transferring a contents for backup if the system does not already have a
copy. Anderson teaches recognition of the contents through a hash value or other
unique identifier that identifies the contents to be evaluated [see: abstract; column 16
lines 48-57 "the identification 194 may be, for example, a hash value, checksum or other
unique identifier"]. It would have been obvious to one of ordinary skill at the time of the
invention to have combined Andersen with Dutta et al. because identifiers provide
access or indexing ability to data for processing, and special identifiers would provide a
more enhanced or customized approach to identifying data for storage.

5.   Regarding claims 2 and 3, wherein the apparatus further comprises a transceiver

… wherein the data is sent in compressed form …. [note: Dutta et al. Figures 1 and 2;

paragraphs 0022 and 0027].

6.   Regarding claim 5, "wherein said hash value is generated by a cryptographic

hashing algorithm" [note: Andersen column16 lines 48-57 hash value to uniquely

identify contents for backup storage area].

7.   Regarding claim 6, "wherein said cryptographic hashing algorithm is selected

from the group of cryptographic hashing algorithms … [note: Andersen teaches unique

identifiers column 16 lines 48-57; while Dutta teaches special protocols may be defined

see paragraphs 0023-0024, 0027 and 0031]. It would have been obvious to one of

ordinary skill at the time of the invention to have provided a group selection since Dutta

teaches special protocols may be implemented this would provide greater flexibility to

the end user in terms of tools for locating data.

8.   Regarding claim 7, "wherein said hash value is a cryptographic checksum" [note:

Andersen column 16 lines 48-57 "the identification 194 may be, for example, a hash value,

checksum or other unique identifier"].

9.   Regarding claim 8, "wherein the hash value is wirelessly communicated via a
communication medium selected from a group consisting of : RF signals, optical
signals, audio modulated signals and electromagnetic signals" [note: Dutta et al.
teaches wireless transfer of information see abstract; Figure 5; and paragraph 0043].

10.   Regarding claim 9 and 10, further comprising a designating a data type not to
backup from the wireless communication apparatus .... a data location .... [note: Dutta
et al. paragraph 0043 push a content type for backup].

11.   Regarding claim 11, "select a backup compilation ... receive a has values for
restoration data from said backup and only if said hash value is not identical to any hash
value of data currently on the wireless communication apparatus, receive said
restoration data from said backup server" [note: Dutta et al. Figures 7 and 8; paragraph
0048; paragraph 0055 reloading backed up data].

12.   The limitations of claims 12-16 19 have been addressed above; therefore they
are rejected under the same rational.

13.   The limitations of claims 17-19 have been addressed above, except for the
following, "a computing server apparatus" [note: Dutta et al. Figure 1 server 502,
Figures 3, and 5 ; paragraph 0017 a cellular wireless network 112].

Response to Arguments

14.   Applicant's arguments filed December 10, 2008 have been fully considered but they are not persuasive.

In the response Applicant argued the following:

ARGUMENT: In response to the rejection cited under 35 USC 112 first paragraph of claims 1-16 as failing to comply with the written description requirement regarding the limitation "strongly collision free deterministic identifier" and 35 USC 112 second. Applicant has amended the claim to recite a hash value.

RESPONSE: Applicant's amendment overcomes the rejection.

ARGUMENT: Applicant argues Dutta et al. does not teach the added limitation "facilitate login to a user account at a backup server" or a hash value as an identifier as claimed.

RESPONSE: The examiner respectfully maintains the prior art rejection citing Dutta et al. in view of Andersen. Dutta et al. provides for the limitation facilitate login [note: paragraph 0007 wireless device pushes request to client via proxy/gateway server; paragraph 0017-0020 IP network system requests IP address based on uniform resource locator and connects via proxy server 106 or another connection; also note firewall configuration; gateway 114 paragraph 0022; paragraph 0023 wireless application protocol (WAP); and Figure 4]. Anderson et al. teaches a hash value or check sum as a unique fingerprint in backing up data [see: column 3 line 56 through

column 4 line 16]. Anderson uses the identifier (i.e. hash) as an indication of weather

data is already available to the backup server [see: abstract; column 4 lines 33-53;

column 9 lines 19-67; column 16 lines 44 through column 17 line 9; column 16 lines 48-

57].

Conclusion

15.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

16.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Greta L. Robinson whose telephone number is

(571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571)272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greta L. Robinson/
Primary Examiner, Art Unit 2169a
March 12, 2009